

THE STARS AND BARS

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The Stars and Bars

Report

of the

“Stars and Bars” Committee
Sons of Confederate Veterans

Washington, D. C.

1917



*Compliments of
Jessica Randolph Smith -
March 1923*

REPORT OF THE "STARS AND BARS" COMMITTEE

Washington, D. C., June 4, 1917.

To the Sons of Confederate Veterans:

Your Committee appointed at the General Reunion in Richmond, in June, 1915, to investigate and report as to who may be entitled to the honor of having designed the first flag of the Confederate States of America, generally known as the "Stars and Bars," respectfully begs leave to report as follows:

Your Committee has been delayed, in making its report, by reason of the difficulty of the task and by reason of the illness of its chairman, which latter continued for several months. Your Committee found that the task (which, at first, was thought to be comparatively easy) was exceedingly difficult. A great many letters were written and a great deal of newspaper and other documentary evidence was examined. Every one who was deemed by your Committee to possibly be informed, in any way, on the subject, was written to, and every source of information, of a documentary or historical nature, that your Committee deemed might throw light on the subject, was utilized fully. Advertisements, asking for information, were published in *The Confederate Veteran*, our official journal. All members of the Confederate Provisional Congress, that were still living, were interviewed, or written to. It was a disappointment to your Committee to find that none of these members had any recollection whatever of anything that might throw any light on the matter. Your Committee does not claim to have exhausted every means of information, but it has done everything that the ability of its members made possible.

Claims for this honor are made on behalf of two persons. One is on behalf of Major Orren Randolph Smith, formerly of Louisburg, North Carolina, now deceased, which is prosecuted by his daughter, Miss Jessica Randolph Smith, of Louisburg. The other is on behalf of Mr. Nicola Marschall, formerly of Louisville, Kentucky, and previously a resident of Marion, Alabama, which is prosecuted by his widow, by Mrs. Chappell Cory, of Birmingham,

Flags, Confederate States of America

Alabama, and by Mr. R. C. Rogers, of Louisville, Kentucky. Mr. Marschall himself participated in the prosecution until his death, which occurred in February, 1917. In the course of investigation, statements were made to your Committee, that Gen. P. G. T. Beauregard had designed this flag, but that claim was not, in any way, pressed, and your Committee is of the opinion that the only claim that Gen. Beauregard ever made was as to the Battle Flag, which is not here involved. As the matter involved here is historical in its nature, your Committee has made such independent investigation as was deemed best and was within its ability.

In the investigation made by your Committee, it developed that another Committee was appointed by this Confederation at the Jacksonville Reunion, in 1914, to perform duties similar to those that were assigned to this, your Committee; but this, your Committee, has not ascertained that the former committee, at any time, made a report. This, your Committee, had almost completed its work when it learned of the appointment of the former Committee, and it deemed it best then to complete the task and make its report.

Your Committee reports that a committee composed of Gen. C. Irvine Walker, as chairman, Gen. John P. Hickman and Gen. Thomas Green, Sr., was appointed by the United Confederate Veterans to perform similar duties to those assigned to your Committee, and this committee of the Veterans made its report in June, 1915, to the Richmond Reunion, in favor of Major Smith. This report was duly adopted by the United Confederate Veterans. A copy of this report is hereto attached, marked "Exhibit A."

At the Birmingham Reunion, in 1916, a resolution was presented to the United Confederate Veterans, providing that a committee of three be appointed to thoroughly investigate as to the origin of this flag and report at the next Reunion. Mr. Marschall's friends were the movers in this. The resolution was not adopted; but it was referred to the Historical Committee. This committee will probably make its report at this Reunion. Gen. Bennett H. Young, of Louisville, Kentucky, is chairman of this Historical Committee. Gen. Young is favorable to a further investigation, by a new committee; but his letter evidences some doubt as to this being the preference of the organization.

It was stated in the press reports of the Richmond Reunion, of 1915, that the report of the committee of the United Confederate Veterans was the report, also, of similar committees appointed by the United Daughters of the Confederacy, and by this Confederation. Your committee has similar information from one of the principal officers, at the time, of the United Daughters of the Confederacy as to its action. The committee of the United Daughters of the Confederacy, however, made a report to the San Francisco convention, in the autumn of 1915, in which it stated that in its opinion neither of these two claims had been satisfactorily proven, and that the matter should be placed in their class of Disputed Claims. Your committee was informed that nothing was done, by that convention, as to this report; but its minutes, at page 44, state that the report was adopted.

The Confederate Southern Memorial Association, at its convention in Richmond in June, 1915, awarded the honor to Major Smith.

Your Committee has not seen the minutes of the Reunion of 1915, of this Confederation; but what purports to be a synopsis of them is printed in *The Confederate Veteran* of August, 1915. On page 373 it recites that Miss Smith was presented to our convention and stated that the Veterans had awarded the honor of having designed the Stars and Bars to her father. Then, the wording is: "On motion, the action of the Veterans was indorsed and the matter settled." Somewhat further down is this statement: "On motion, the Commander-in-Chief was requested to appoint a committee of three to render a report, at the next Reunion, regarding the flag of the Confederacy, so that a permanent record be made of the same." Then follow the names of this, your Committee.

Your Committee is quite sure that what, in fact, transpired at this Reunion was as follows: Miss Smith was introduced, made a few remarks, and exhibited a flag, which will be hereinafter referred to as "the Franklin Rifles flag." Gen. Walker stated that the Veterans had investigated the claims and had awarded the honor of having designed the Stars and Bars to Major Smith. A comrade from Alabama then arose and stated that Alabama had made as good a fight as she could for Mr. Marschall, but had lost, and that that was the end of it. There was a pause, after the remarks of this comrade, but

no motion was made and no action was taken. Some other matters requiring a few minutes time were then taken up; then the present chairman of this, your Committee, made a motion that, as the question of who designed the Stars and Bars was an important one, a committee of three be appointed to investigate the matter and report to this Confederation. This motion was put and carried.

This resume will enable our members to see what is the exact status of the matter.

The correspondence, engaged in by your Committee, has developed the fact that great interest is taken in this investigation and in the action of this Confederation, by many persons who are interested in and informed about Confederate affairs. For this reason, as well for the reason that our members are entitled to a clear conception of the matter, your Committee presents a report of more than ordinary length.

At the threshold of the consideration of the question, your Committee was met with a very remarkable conflict between what purports to be the report of the committee, appointed by the Confederate Provisional Congress to select a flag, and a letter subsequently written by the chairman of that committee, Hon. Wm. Porcher Miles, of South Carolina. The report indicates that a single design was recommended, while the letter indicates that four designs were reported, from which the Congress might select one. It may be very important for our members to decide whether one, or four designs were reported, in order for them to decide who originated the design finally adopted; and therefore your Committee gives full data bearing on this particular phase of the matter.

As reference will frequently be made to it, it will be understood that, wherever the word "Congress" is used, it refers to the Provisional Congress, which met in Montgomery, in 1861.

That committee report states that a great many designs had been received by the committee, and that they might all be divided into two great classes, namely (1) those which copy and preserve the principal features of the flag of the United States, with slight and unimportant modifications, and (2) those which are elaborate, complicated, or fantastical. The objection to the first class was that none of them, at any considerable distance, could be

readily distinguished from the United States flag. That report, then, refers to the attachment which some Southerners had for the Stars and Stripes, states that the committee did not share in that attachment, and then goes ahead and says that a new government could not, with propriety, or without encountering very obvious practical difficulties, retain the flag of the government from which its citizens had withdrawn; that there was no propriety in retaining the ensign of a government which had become so oppressive that separation was necessary; that it was superfluous to dwell upon the practical difficulties which would flow from the fact of two distinct governments both having flags that were very similar; and that it would produce endless confusion and lead to perpetual disputes. That report then refers to what it calls "the glories of the old flag," the Revolutionary war, the war of 1812 and the Mexican war, and says that although the South did win her fair share of glory and shed her full measure of blood under its guidance, the impartial page of history would preserve that fact more imperishably than a piece of striped bunting. That report then refers to the fact that, although the Colonists, up to the last, had a fond feeling for Great Britain, calling her "the mother country," and had cherished memories of its flag, they did not desire to retain the British flag, or anything similar to it; and that we should now follow that example. That report then states that Liberia and the Sandwich Islands had flags similar to that of the United States, and that this furnished "an additional, if not in itself a conclusive reason why we should not keep, copy or imitate it," not wishing to borrow, second-hand, what had been pilfered by a free negro community and a race of savages. That report then has the following: "It must be admitted, however, that something was conceded, by the committee, to what seemed so strange and earnest a desire to retain at least a suggestion of the 'old Stars and Stripes.' So much for the mass of models and designs more or less copied from, or assimilated to, the United States flag."

That report then states that the second class of designs—those of an elaborate, or complicated character—while they may look pretty enough, they are not appropriate as flags.

The following language is then used: "A flag should be simple, readily made and, above all, capable of being

made up in bunting. It should be different from the flag of any other country, place or people. It should be significant. It should be readily distinguished at a distance. The colors should be well contrasted and durable; and lastly, and not the least important point, it should be effective and handsome. The committee humbly think that the flag which they submit combines these requisites. It is very easy to make. It is entirely different from any national flag. The three colors of which it is composed, red, white and blue, are the republican colors. In heraldry they are emblematic of the three great virtues—of valor, purity and truth. Naval men assure us that it can be recognized and distinguished at a great distance. The colors contrast admirably and are lasting. In effect and appearance it must speak for itself. Your committee, therefore, recommend that the flag of the Confederate States of America shall consist of a red field, with a white space extending horizontally through the centre and equal in width to one-third of the width of the flag. The red spaces, above and below, to be of the same width of the white. The union blue extending down through the white space and stopping at the lower red space. In the center of the union, a circle of white stars corresponding in number with the States of the Confederacy. If adopted, long may it wave over a brave, a free and a virtuous people. May the career of the Confederacy, whose duty it will then be to support and defend it, be such as to endear it to our children's children as the flag of a loved, because a just and benign government and the cherished symbol of its valor, purity and truth. Respectfully submitted, Wm. Porcher Miles."

The letter referred to is from the same Mr. Miles to Gen. P. G. T. Beauregard, New Orleans, La., is dated Oak Ridge, Nelson Co., Va., May 14, 1872, and reads as follows: "At the Provisional Congress which met in Montgomery, I was chairman of the committee on devising a flag. We had hundreds of designs submitted to us, from all parts of the country. Not one of them, in the least, resembled the battle flag. The committee could not agree upon a flag. They finally determined to submit four designs to Congress, from which they should, by vote, select one. One of the four was the flag that was adopted, the first flag of the Confederacy: a field of three horizontal bars, or stripes, red, white and red, with blue union and

stars. Another of the four was a red field with a blue ring, or circle, in the centre. Another was composed of a number of horizontal stripes (I forget how many) of red and blue (none of white) with blue union and stars like the first. The fourth was a saltire, as it is called in heraldry, the same as a St. Andrew's cross, of blue with white margin, or border, on a red field with white stars, equal to the number of States, on the cross. This was my design and urged upon Congress earnestly by me. Now, the only difference between this and the Confederate battle flag is that the latter was made square, for greater lightness and portability, while the one submitted to Congress was, of course, of the usual proportion of a flag, i. e., oblong. Models of considerable size, of the four flags submitted, were made of colored cambric and hung up in the hall where Congress sat, and they were afterwards long in my possession, as was also the Confederate flag (made of merino, there being no bunting at hand) that within an hour or two of its adoption (thanks to fair and nimble fingers) floated over the State Capitol of Alabama, where Congress held its sessions. Unfortunately they were all lost or destroyed during the war. If they could be produced, they would settle the question as to the origin of the Confederate Battle Flag. But there must be many members of the Provisional Congress who remember and can testify to the correctness of the above statements. Now, all this happened before you captured Fort Sumpter, before April, 1861, sometime during which month Col. Walton says Mr. Hancock, at his request, designed his flag."

In this connection, the following may be important. It is a part of a letter to Gen. P. G. T. Beauregard, Fairfax C. H., Va., by Wm. Porcher Miles, dated Richmond, Va., Aug. 27, 1861. It reads as follows: "Although I was chairman of the Flag Committee who reported the present flag, it was not my individual choice. I urged on the committee a flag of this sort (design). This is very rough. (Design of Confederate Battle Flag as it is.) The above is better. The ground red, cross blue (edged with white), stars white. This was my favorite. Colors red, white and blue preserved in it. It avoided the religious objection about the cross (from the Jews and many Protestants) because it did not stand out so conspicuously as if the cross had been placed upright thus (design). Besides, in

mine, the cross was more heraldic than ecclesiastical, being a 'saltire,' significant of strength and progress (from the Latin, salto, to leap, etc.) I wish that Congress would change the present one. Your reasons are conclusive, in my mind. But I fear it is just as hard now as it was at Montgomery to tear the people away entirely from the desire to appropriate some reminiscence of the 'old flag.'"

These two letters are primarily about the Battle Flag; but they are of considerable importance in the matter now before us.

Your committee has studied these documents separately, in connection with each other and in connection with the other information which it has, and has not been able to reconcile them in a way that is satisfactory. The conclusion that one states that the committee of the Congress agreed on a single flag, and the other that it did not, seems unavoidable.

In order to help our members reach a decision as to whether this committee reported one design, or four designs, your committee reports the following facts, with its occasional comments thereon. First will be given those which indicate that one design was agreed upon:

The journal of the Congress shows that Judge Alexander B. Clitherall, who was clerk of the committee on accounts of the Congress, was refunded \$90.00 for the cost of the flag (including staff, halyards, freight, etc.), which was ordered by its committee. Mr. Miles' second letter speaks of his having been chairman of the committee "who reported the present flag." This, however, does not negative the idea that other designs were reported. It does not say that the committee agreed on the present flag.

In this second letter, Mr. Miles speaks of having urged his design on the "committee." The Southern people, generally, were very much in favor of a flag that bore some resemblance to the Stars and Stripes, and pressure was great, on the committee, to adopt a design of that nature. Some of the documents presented to your committee indicate that the flag was hoisted over the capitol before it was actually voted upon by the Congress, and that this was done by some one who knew what the committee would recommend; also that the actual adoption was on March

5th, though the journal shows it to have been on March 4th. Your committee is of the opinion, however, that the flag was actually hoisted after its adoption by the Congress, and on March 4th. Mr. Miles' letter speaks of its having been quickly made, after its adoption, it was hoisted about 4:00 P. M., and the journal shows that the Congress took a recess from 3:30 to 7:00 P. M., on the 4th. Other documents bear out this conclusion. The Mobile Daily Advertiser, of March 5th, 1861, publishes a telegram from Montgomery dated March 4th, stating that the design adopted was recommended by the committee. The Montgomery Weekly Advertiser of March 6th and of March 7th, 1861, and the Mobile Daily Advertiser of March 7th, 1861, have similar publications. These practically all originated from the same source. Your committee has not been able to find any other Alabama newspaper containing reference to the matter. The National Tribune, of Washington, D. C., of August 18th, 1910, has an article with similar statements; but of course this has no probative force. The document which purports to be the report of the committee indicates, of course, that the committee agreed on one design. Facts mentioned hereinafter in the discussion of various theories will throw some light on this question, also. The journal of the Congress shows that the Flag Committee was authorized to employ a draughtsman.

The following indicates that four designs were reported:

The committee may have submitted four designs to the Congress, and after the Congress had made its selection, the committee drew up a report that would embody this design. The complete change in the tone of the report suggests this idea. At first it strongly opposes a design bearing any resemblance to the Stars and Stripes; and then it recommends a design so much like it that it had to be, subsequently, changed. The journal of the Congress shows that it was ordered that the full report be entered in the journal, and it is so entered, with the omission of two sentences which are not important here. As a matter of fact, however, the journal does not show that the report was actually adopted, or that a flag was adopted, nor is there a record of the engrossing of any bill concerning the flag, or of its signature by the President, as is the case with a great many other matters. Things were very much hurried in those days, and it was especially desired to have

the flag of the Confederacy adopted and flown to the breeze on the day that the report was presented (which was March 4th), before Mr. Lincoln was inaugurated as President of the United States. This hurry may have caused almost any informality as to the report of the committee. It is possible that documents which were lost in the exigencies of war will show that a different report was presented. Mr. Miles' letter indicates that the first flag was made after its adoption. Had the committee agreed on one design, it is probable that it would have had the flag made before its adoption, as speed was then very much desired. Mr. Miles and probably all the other members of the committee evidently had a deep-seated aversion to agreeing on a design that resembled the Stars and Stripes. Mr. Miles was very anxious to have his own design adopted, and it is not unreasonable to suppose that the committee did not decide definitely against him, but referred his design, and three others, to the Congress. An article in the News-Leader, of Richmond, Va., of date October 25, 1906, (kindly furnished by Dr. Y. L. Lemonnier, of New Orleans), states that four designs were hung on the walls where the Congress sat, when it was considering the adoption of the flag. There was much heated discussion of the flag matter, both in and out of Congress. The variance between the records of two of our present organizations and the recollections of those present at the meetings, regarding the matter now under discussion, shows how easy it is for official records not to be exactly true to the facts. So, what seems to be the report of that committee, as a matter of fact, may not be.

The report published as the report of the committee of the Congress may have been a report to it of a sub-committee. Mr. Miles, in his letter, says that he urged his design (which was different from the Stars and Bars) "on Congress." Both the report and the letter are signed by Mr. Miles. A copy of the letter is now in the Confederate Museum in New Orleans. It is undoubtedly authentic. It was written in 1872, which was only eleven years after the report was made. Mr. Miles' recollection must have been clear, such a short time after the event transpired. Your committee has a letter, from a citizen of South Carolina (of the highest reputation), who knew Mr. Miles intimately, which states that Mr. Miles retained his full mental powers many years after 1872. This letter states

positively that the committee could not agree on a flag, that it decided to submit four designs to the Congress, that one of these four was the design subsequently selected by the Congress, that models of all four were made and hung on the walls so that members could act intelligently, that these models were made of cambric and that they were afterwards long in his possession, and it minutely describes each of the four designs. These recitations are so clear, so in detail and so in harmony with what one might naturally expect that it is next to impossible to escape the conclusion that they state what actually took place.

Your committee is of the opinion that four designs were submitted to the Congress.

Having reached this conclusion, the questions then arose: was the design of either of the present claimants among those four; if so, whose design was it; and was it adopted by the Congress?

Your committee will consider first the claim of Mr. Marschall. Your committee believes that our members can more easily weigh the facts and reasons presented if your committee announces its conclusion first; and that conclusion is that Mr. Marschall's design was not among the four and was not the one adopted by the Congress. The evidence, on his behalf, is as follows:

The following persons state that, as early as the Spring of 1861, Mr. Marschall was generally credited by the citizens of Marion, Ala., with having designed the Stars and Bars, that they were proud of it, that they never heard this questioned until of recent years, and that Gov. Moore (of Alabama) requested Mrs. Lockett to get Mr. Marschall to make the design, viz: John W. Tench, Celesta M. Teolin, Theus Rauol, Col. Sumpter Lea, N. E. Hatch, J. B. Reid, Arthur Loomis, Thos. L. Clarke, Carlos Reese, Mrs. W. W. Brickell, Virginia F. Drake, Hallie Morton, Jno. Purifoy, D. M. Scott, Ernest F. Florance, Mrs. Martha Kerall, Fannie Lockett and twenty-three others. W. A. Lockett, who was a son of Mrs. Napoleon Lockett (the moving spirit, in the early stages of the matter, so far as Mr. Marschall was concerned) states that he was in the army; but, while at home, on a visit, he saw the crude drawings that Mr. Marschall had made, in his mother's possession, that his mother told him that better drawings had been sent to Gov. Moore, that all there knew that Mr. Marschall's design had been accepted, that he had fre-

quently stated so in U. C. V. meetings without its having been questioned, and that Gov. Moore had frequently told him that the Congress had adopted Mr. Marschall's design for the flag and for the Confederate uniform through his (Gov. Moore's) influence. Miss Letitia C. Tyler (who is generally credited with having hoisted the first flag) states that it was generally believed (at the date her letter was written), that Mr. Marschall designed it. C. H. Beale states that, in 1868, Mr. Marschall designed the first flag, at the request of Mrs. Lockett. Mrs. James A. Smith states what the large number above stated, and also that when the committee failed to be satisfied with the designs that had been submitted to it, some state officers, knowing of Mr. Marschall's ability, suggested that Mrs. Lockett get him to make a design; that she knew when Mrs. Lockett asked him to make it and when it was accepted by the Congress. She states, however, that most of her knowledge came from statements by Mrs. Lockett. Edw. W. Rucker states that he dined with Gen. N. B. Forrest and Gov. Moore, at Mrs. Lockett's house, in 1869; that Gov. Moore said, then, that Mr. Marschall, who designed the Confederate flag chosen by the Congress, was a citizen of Marion; that the next day he met Mr. Marschall, who detailed to him how the matter came about; that he, afterwards, moved to Marion and lived there ten years; and that it was well known, in Marion and in Alabama, that Mr. Marschall had designed the flag, and no denial of it was heard.

Your committee has seen three different papers, on which Mr. Marschall's own statement is made. One is an affidavit, dated October 22, 1914, and states that he designed the first flag of the Confederacy, that his design was accepted by the Congress in 1861, that it floated over the capitol at Montgomery, that he was notified, later, that his design had so been accepted, and that, about the same time, he designed the Confederate uniform. The second is an affidavit, dated December 21, 1914, and states that he designed the first flag, that it was accepted by the Congress, that it was designed at the request of Mrs. Napoleon Lockett, some time before March 4, 1861, that he then made three designs, that Mrs. Lockett told him the Confederate Government wanted a flag, that he at once took a piece of paper and made three designs, that the first had a blue field extending to the top of the lower

red stripe, that there were two red stripes and one white stripe, that there were seven stars in the upper left-hand corner, that the second design was the same except that the blue field with the stars was at the extreme left of the white stripe, instead of the top red stripes, that the third had the blue field and stars in the center and that he did not at the time think that he had done anything worthy of note. Both of these affidavits were with the papers presented to the committee of the United Confederate Veterans and are now in the possession of their Adjutant General. The third is the affidavit presented to your committee, and reads as follows: "I do declare, with all the solemnity that I can command, that at the request of Mrs. Napoleon Lockett, I designed the first Confederate flag, and the uniform accepted by the first Confederate Congress, which met in Montgomery, Ala., and which was influenced by Gov. A. B. Moore to accept my design. According to Gov. Moore's own statement, I got the idea of the uniform from some Austrian sharpshooters that I had seen dressed in gray, with green trimmings. I had yellow trimmings for cavalry, blue for infantry, and red for artillery." It was sworn to on August 9th, 1915.

The Louisville-Courier-Journal, of June 14th, 1905, has an article on this subject, and it contains an interview with Mr. Marschall, in which he says that Mrs. Lockett said to him that secession had taken place and a flag was wanted, that he at once made three designs for her, that he later learned that one of them had been adopted by the Congress and that he also designed the Confederate uniform. The various newspaper articles mentioned herein all indicate that the materials for them were furnished by Mr. Marschall and are quite similar to his affidavits.

The Lost Cause, of February, 1904, has a similar article. It has statements that Texas had just seceded, on February 1, 1861; that calls were made for a suitable design for a flag, that Mrs. Lockett told Mr. Marschall that the Confederate Government wanted a flag, and suggested that he design one similar to the United States flag, that he took a pencil and made two designs, that one was red, white and red with the blue field in the upper left corner and seven stars, the number of states that had then seceded; that the other design was a narrow red stripe at top and bottom, with a broad center stripe divided in half—the right half of white, the left half of blue with

seven stars and that the first of these was adopted by the Congress.

In a paper, published in Jacksonville, Fla., as your committee has been informed (the clipping not showing details, although other papers indicate that it is the Florida Times-Union of May 17, 1905) is an article on this subject. It details an interview with Mr. Marschall, and the following words appear as having been uttered by him: "Soon came the first notes of war. Mrs. Lockett came to me one day and said, 'Mr. Marschall, we have seceded, and the Confederate Government wants a flag. Will you make us a design? It must not be too unlike the United States flag, but different enough to be distinguished at a distance.' At once I took pencil and paper, and made three different designs." He describes the three, briefly, then says that Mrs. Lockett said that they, also, wanted a design for a uniform, and asked if he could suggest one. He thought of some that he had seen in Austria, took a piece of paper and made several rough sketches. He then says: "It did not occur to me then that I had done anything worthy of note. I simply made the sketches at the request of Mrs. Lockett. I knew no more about them from then until I found that the uniform and one of the flags had been adopted by the Confederacy."

The National Tribune, of Washington, D. C., of August 18, 1910, has an article on this subject. It mentions Maj. Smith's claim, but states that it is more generally believed that Mr. Marschall has the better claim. No authority is given for this opinion.

Your committee feels that this evidence is not sufficient, for the following reasons: The local and contemporary reputation, shown by the great majority of the statements, is essential, in claims of this kind; but it is not conclusive. Contesting claimants have appeared for the honor of having written "Lines on the Back of a Confederate Note" and of having written "All Quiet along the Potomac To-night"; and your committee knows that much local and contemporary proof can be made on both sides as to these. The same is true of a great many similar contests. Those wishing to believe a certain thing are very much given to believing it on very slight evidence. The showing made, on behalf of Major Smith, in this regard, is quite as strong as is the foregoing. What these persons say as to Gov. Moore's having requested Mrs. Lockett to get Mr.

Marschall to make the design comes through too many hands to be forceful. The bulk of Mr. W. A. Lockett's statement is practically the same as the foregoing. He states that two sets of drawings were sent to the committee. Mr. Marschall's statements are that only one set were sent. He also states that Gov. Moore frequently told him that the Congress had adopted Mr. Marschall's designs for the flag and for the uniform through his (Gov. Moore's) influence. If it did, it is practically certain that mention of it would have been made in the Montgomery newspaper, yet, this says that no design was accepted. Gov. Moore, in this event, would certainly have had some tangible evidence in Mr. Marschall's behalf. Mr. Lockett married a daughter of Gov. Moore, and his brother married her sister. If a sharp conflict occurs between Gov. Moore's version of the matter and that of others, and if the latter is more strongly supported by clear inferences as well as by direct statements, we must conclude that Gov. Moore's version does not outweigh the other. Your committee believes that such is the case here. Particularly is this more probable when, as your committee feels subsequent recitals will show, Mr. Marschall is not entitled to the credit of having designed the Confederate uniform. Throwing a great deal of light on this particular phase of the matter, as well as on other phases, is an article, written by Ethel Hutson, a grand-daughter of Mrs. Lockett, and published in the "Picayune," of New Orleans, La., of August 13, 1911. It states that Mrs. Lockett frequently talked to her and the other grandchildren about the events of the war, but never referred, in any way, to her, or Mr. Marschall's having anything to do with the designing of the Stars and Bars. It also states that when Mr. Marschall's story first appeared, it surprised the members of Mrs. Lockett's family greatly, for this reason.

Miss Tyler's statement is too vague to be of much weight. In an article written by a very prominent Alabama lady published in *The Confederate Veteran* of May, 1916, Miss Tyler is reported as having stated that she did not recall if she had ever heard who designed the flag. One of our Past Commanders-in-Chief states that he had several interviews with Miss Tyler and that she had no recollection as to this particular matter. She was quite young at the time of the flag incident. Mr. Beale's statement is general, and as to reputation only. Mrs. Smith

refers to what is one of the arguments on behalf of Mr. Marschall when she says that the committee turned to Mrs. Lockett, after all the submitted designs had been found unsatisfactory. Your committee will give the facts and its conclusions, as to that theory, later. Mrs. Smith's knowledge, also, is shown to have been largely hearsay, from Mrs. Lockett. Mr. Rucker's statement that Gov. Moore told him, in 1869, in Marion, that Mr. Marschall had designed the flag, has practically the same weakness that Mr. Lockett's has. It was Gov. Moore's version. Mr. Rucker, subsequently, moved to Marion, and his prejudices, naturally, would be in that direction.

Mr. Marschall's own statements are clear and positive. Detailed analyses of them, later in this report, will show the conclusion of your committee, as to them.

It appears, frequently, in the statements of the various witnesses and in the newspaper articles, that Mrs. Lockett was a woman of considerable influence in her community and was very enthusiastic on the side of the South, as was natural. She appears to have been the moving spirit, so far as action by Mr. Marschall is concerned. In this connection, it is of some importance to know that one witness, Hattie Morton, states that Mrs. Lockett was a near relative of hers, and that the witness was the cousin of Mrs. Marschall. Mr. Marschall states that Mrs. Lockett was one of his best friends and that Gov. Moore was a trustee of the school where he taught, and also his warm, personal friend.

The evidence on behalf of Mr. Marschall is, of course, sufficient to sustain his claim, were it uncontroverted, and were there no fairly strong contesting claim. With the situation as it is, however, your committee has found it necessary to analyze all the evidence very carefully; and that has shown considerable weakness in Mr. Marschall's claim. There are several small contradictions and some rather serious ones. Small contradictions would not be of importance, under ordinary circumstances; but where the contest is so spirited and where it is necessary to depend so much on inferences, your committee feels that every contradiction should have its weight. Your committee will, now, discuss these:

In some accounts Mr. Marschall says that he made the design for Mrs. Lockett on a piece of paper; in some he says, on a card; in some he says that he made three

designs; in others two. The article in Mr. Harrison's book (*Stars and Stripes and Other American Flags*) says that Mr. Marschall made his designs "in the late Spring," which would have been after the flag had been adopted. In Miss Hutson's article, it is said to have been in April. The article in the *Montgomery Advertiser* of June 11, 1911, says that it was late in April, or early in May, and also that the first flag was raised in June. All of these dates are too late. It is but fair to state that this article was furnished by the *Courier-Journal*, of Louisville, Ky., and your committee has an affidavit, by Mr. Rogers, one of Mr. Marschall's advocates in this contest, which states that he got the data from Mr. Marschall, from which this article was written, and that the errors were made by him, he not thinking that these matters were of importance. This same article states that the designs were given, by Mrs. Lockett, to Gov. Moore, and by him shown to several men prominent in the South, and also intimated strongly that Mrs. Lockett was present, with those having the decision, when it was decided that the Confederacy should have its own flag. All of this is contradictory of other accounts.

The most serious fact which the evidence discloses, however, is that, in the opinion of your committee, no one of Mr. Marschall's designs was exactly like the Stars and Bars. The second and third mentioned by him were materially different. The facts, as to the first, are as follows: The other details of this design are the same as those of the Stars and Bars, as adopted by the Congress, but there are varying descriptions given of the exact location of the blue field, in which the stars were placed. In the article published in the *Montgomery Advertiser*, of June 11, 1911, no verbal description is given, but there is printed a design in which the blue field extends only one-half way through the white bar, instead of all the way through it. This is the publication which Mr. Rogers says has errors caused by him. He particularly states that Mr. Marschall did not make a design for him; but that he drew what was published in the paper.

As a guide for our members, it is recalled that the act of the Provisional Congress reads as follows: "The flag of the Confederate States of America shall consist of a red field with a white space extending horizontally through the center and equal in width to one-third the width of the

flag. The red spaces above and below to be of the same width as the white. The Union blue extending down through the white space and stopping at the lower red space. In the center of the union a circle of white stars, corresponding in number with the States of the Confederacy."

In Mr. Marschall's affidavit of October 22, 1914, to the Veterans' committee, and in that made to your committee, no description whatever of his design is made. This is somewhat remarkable, as the charge had been made, at least previously to the date of his affidavit to your committee, that his design was not exactly the same as the Stars and Bars; and, in the affidavit to your committee he gives some details of the uniform, which he claims to have designed. In his affidavit of December 21, 1914, he states that the blue field, in his design, extended to the top of the lower red stripe; though he clouds the description somewhat by saying that his second design was the same as his first, "except that the blue field, with the stars, was at the extreme left of the white stripe, instead of the top red stripe."

In the National Tribune the photographs show it correctly. In the Florida paper and the Louisville Courier-Journal the photographs are correct, but the descriptions speak of his second design being exactly like the first, except that "the blue field with stars was at the extreme left of the white stripe, instead of the top red stripe." This would indicate that it extended through only one stripe, in the first design. The description, given by him, in *The Confederate Veteran* of 1905, page 222, reads the same way.

In describing his first design (that which he claims to have been adopted), in the *Lost Cause*, the National Tribune, the Courier-Journal, the Florida paper, Mr. Harrison's book and *The Confederate Veteran* he speaks of the blue field being in the "upper left corner." This might indicate that it was the depth of one bar, or of two.

These varying descriptions and representations, all purporting to come from Mr. Marschall, leave the matter in such shape that your committee is of the opinion that, according to his own showing, Mr. Marschall's first design was not exactly like the Stars and Bars. Either the blue field extended only half-way through the middle bar, or it was at the extreme left of the top red bar, only. It is

more probable that the latter was the case, as in both his other designs the blue field was the width of one bar only. In one of these it was placed at the extreme left of the middle bar, and in the other, in the center of the middle bar. This conclusion seems all the more probable when we remember that he was trying to make a design that was something like the flag of the United States, yet different enough to be distinguished at a distance. A field one-third the height of the flag would be more apt to be so distinguished than one-half the height of the flag, and the former would still be large enough to show the stars clearly. The field, in the United States flag, extends seven-thirteenths of the height of the flag. This conviction of your committee is somewhat strengthened by the fact that, although this discrepancy in the design had previously been commented on, in his affidavit presented to your committee, as well as in one of the affidavits presented to the committee of the United Confederate Veterans, Mr. Marschall does not describe his design, although, in the former affidavit, he gives some description of the Confederate uniform, which he claims to have designed, although the uniform is not the subject of this contest.

The following is worth noting: Your committee was informed that one of Mr. Marschall's advocates had stated that the original design, made by Mr. Marschall, was still in existence. The chairman of your committee wrote to this advocate, mentioned this statement, and asked that this original be sent to your committee. No reply to this has yet been received, although the letter was written about February, 1916.

While the question of who designed the Confederate uniform is not directly involved in this contest, some facts concerning it might be mentioned. In Mr. Marschall's affidavit of October 22, 1914, and in that made for your committee, he makes claim to having made the designs that were subsequently adopted as those for the Confederate uniform. In several of the newspaper articles referred to herein, the same claim is made; and many of the persons giving testimony on behalf of Mr. Marschall state that this was generally believed to be true in their vicinity. He stated that he got the idea submitted from the uniform of some Austrian sharpshooters.

There was submitted to the committee of the United

Confederate Veterans an affidavit by Col. Lamar Fontaine, of Lyon, Miss., in which he claimed to have designed this uniform, giving details of how he had the models made, exhibited, etc. It was the opinion of that committee that Col. Fontaine did design this uniform, and it so found and reported to the Richmond Reunion. That committee probably was not aware of what will next be mentioned, or it would, most likely, have reached the conclusion that your committee has reached.

Knowing that Gen. J. F. Shipp, of Chattanooga, Tenn., the Quartermaster-General of the United Confederate Veterans, was well informed as to such matters, your committee communicated with him and he wrote that Gen. J. Thompson Brown, of Richmond, Division Commander of Virginia, U. C. V., had investigated that subject thoroughly and could give your committee full and authentic information as to it. Your committee has a letter from Gen. Brown, dated December 23, 1915, in which letter he states that he had investigated the subject; that a committee to make recommendations had been appointed by the Congress; that this committee, after investigation, took the uniform of the French army as the basis of its recommendations, and made certain slight changes which it thought would make the uniform more suitable for Confederate use; and that it then reported its full recommendations, which were adopted. Gray was the color of the French uniform, and as President Davis favored gray, this was another reason for its being recommended. Your committee secured drawings of the French uniform used in 1861, and they corroborate the statements of Gen. Brown.

The advocates of Mr. Marschall at times present the theory that the Congressional committee recommended but one design of flag, and that Mr. Marschall acted as its expert in creating this; and, at others, that it presented four designs, one of which had been furnished to it by Mr. Marschall.

Your committee is clearly of the opinion that what Mr. Marschall may have done was as the personal affair of Mrs. Lockett, and not as the agent of the committee. It is most highly probable that, when the Flag Committee made it known that it would consider designs for the flag, Mrs. Lockett, being a very energetic and enthusiastic woman, went to Mr. Marschall, on her own behalf, and

asked him to make the designs, and she sent them voluntarily to the committee. The committee was authorized to employ a draughtsman; but nowhere does it appear that Mr. Marschall was employed. His own statements show that all he did was to spend ten, or fifteen minutes in drawing sketches which were handed to Mrs. Lockett.

If the committee recommended four designs, it is highly improbable that it got special help. It had one design that was the choice of Mr. Miles. It had hundreds of others, and most probably selected the other three out of this lot. More particularly is this the case if it had Maj. Smith's design. The committee evidently was anxious to have the flag adopted and hoisted the day that Mr. Lincoln was inaugurated, March 4th; and though some of its members objected to anything like the United States flag, they yielded to public pressure somewhat, and sent in some recommendations that had resemblances to the United States flag. The hurry and this pressure and four recommendations suggest the conclusion that they selected the three designs from what had been sent to them. Other portions of this report will show why your committee is of the opinion that Mr. Marschall's design was not among the four.

Mr. Marschall's own statements tend, very strongly, to the conclusion that what he did was for Mrs. Lockett personally, and not for the committee. In the article in the *Lost Cause*, the strong inference is that Mrs. Lockett spoke to him just after Texas had seceded, which was about February 1st. In Mr. Marschall's affidavit of December 21, 1914, he says it was "some time before March 4th"; also, that he drew the designs at once; also that it did not occur to him, then, that he had done anything worthy of note; also that he simply made the designs at the request of Mrs. Lockett. In the *Courier-Journal* article he says that Mrs. Lockett remarked, "We have seceded and want a flag." This indicates that it was some time before March 4th. In the *Montgomery Advertiser* article the same statement is made; also that he dashed off the three designs in fifteen or twenty minutes; also, that he forgot about the matter for a while; also, that he did not think it important; also, that Mrs. Lockett told him, a month or so later, that his design had been accepted.

All these facts harmonize, exactly, with the idea that Mrs. Lockett was acting in her own behalf, and not at all

with the idea that she was acting for the committee, and that Mr. Marschall knew this. If it had been for the committee it would not have been a month, or so, before the selection; Mr. Marschall would not have considered the matter unimportant; he would have taken time to make the designs, and not have dashed them off in fifteen or twenty minutes; and he would have been proud of the assignment and watched closely every move until the selection was finally made. There was much public interest in the matter, and heated discussion in and out of Congress concerning it. Being asked to design a flag for a whole nation, under a government just being established, is not a light matter, and any artist, particularly a new man, would consider it one of the highest honors that could come to him. It is inconceivable that he should have lightly considered the matter, while making the design, unless he did it for Mrs. Lockett personally and not for the committee.

There is, in the archives of the War Department, at Washington, a scrap-book, containing about 150 designs for the Confederate flag. Several years ago these designs, together with letters accompanying them, were gathered together, from the Confederate archives on hand, and pasted in this book. They come from all parts of the South, and most of them in February, 1861. There is nothing to show which was selected by the Congress, or that the designs in the book were selected from others. The name of neither Maj. Smith nor Mr. Marschall appears anywhere in the book, nor is Mr. Miles' design there. The absence of these three designs may be significant. The committee, or sub-committee, may have looked on these as tentative selections for their report, and so separated them from the others. On the other hand, considering their relative unimportance, at the time, and the confused state of affairs which existed, it is not improbable that they were lost, with a great many others, which came in. Mr. Miles' letter states that hundreds of designs were received, and other documents say thousands; so evidently a great many are not in the scrap book.

The proofs, on behalf of Maj. Smith, disclose the following facts: Maj. Smith was then living at Louisburg, N. C., a town of about 750 inhabitants, about ten miles from a railroad, but possibly having a telegraph line. The proofs are not conclusive as to this. One positive statement is

that there was none. He was a very enthusiastic and uncompromising Southerner, and strongly in favor of secession. He had been expecting an advertisement for designs for a flag, and when he saw it, he went at once to a lady who was known to be skilled with the needle, Mrs. Germain Watson, (whose maiden name was Catherina Rebecca Murphy, and who afterwards married Mr. W. B. Winborne), told her of the advertisement and of his having a pet design for the flag, and asked her if she would make a model for him. She consented and did make a model, about one foot long. This model was, at once, sent by Maj. Smith to the committee at Montgomery. This was about the middle of February, 1861. That Mrs. Watson did make this model, that it was exactly like the Stars and Bars, that it was the design of Maj. Smith, and that it was sent by him to the Congressional Committee, about the middle of February, 1861, are quite clearly established by the proofs. As is shown elsewhere in this report, the Congress adopted the flag on March 4th. News of this fact did not reach Louisburg, according to the best evidence that your committee could obtain, until about the middle of March.

As soon as he heard of it Maj. Smith proclaimed the fact that his design had been chosen for the Confederate flag, and there was great rejoicing, there, over the fact. He went to one of the stores, purchased material, took it to Mrs. Watson, and, at his request, she made a flag, exactly like the model, about 9 x 12 feet in size. Maj. Smith had some negroes cut two long saplings, lashed them together to make a flag pole, and, on March 18th, there was a public raising of this flag, with parade, speeches, etc. Major Smith led the parade. No special significance can be attached to this flag, except to show the enthusiasm of Maj. Smith, and the fact that its design was the same as that of the model which had been sent to Montgomery. North Carolina had not, then, seceded, and Maj. Smith wanted, among other things, to influence its secession. This was not the first flag raised outside of Montgomery. Your committee has the statement of C. H. Beale that the new design was known, in Newberne, N. C., on March 5th, and that the steamer "Pearl," which left there that day, had the new flag at its mast-head, and there is evidence that many others were raised on the 5th and 6th.

On April 27, 1861, a flag was presented by some of the

citizens of Louisburg to a company of soldiers, which was organized there and which was known as The Franklin Rifles. The proofs show that this flag was exactly like the flag raised on March 18th and the model which was sent to the Congressional Committee. This Franklin Rifles flag is still in existence, and is deposited in the Hall of History, at Raleigh, N. C., of which Mrs. J. E. Malone is custodian. It was exhibited in our convention at Richmond, in 1915, and all the members of your committee saw it. It had ten stars (as there were ten states in the Confederacy on April 27th). These stars were of gold, and not white, and it had a fringe around it. In other respects it was exactly like the Stars and Bars. At first sight, the colors seemed to be somewhat different; but, on closer inspection, it was evident that the difference was caused by age and that they were really the same as those of the Stars and Bars.

Major Smith's published statement is that his three colors stood for the church, the state and the press, that the large flag was raised on March 18th; that it was made by Miss Catherine Rebecca Murphy; that she was aided by her aunt and Miss Nora Sykes; that it was 9 x 12 feet in size; that Miss Murphy, also, made the model; that he sent it to the Congressional committee, at Montgomery; that it was about 12 x 15 inches, in size; and that both flags, made by Miss Murphy, were alike. There are other statements by him in other papers, which cover the other facts mentioned above. Mr. Harrison's book quotes him as saying that he learned from newspapers that his design had been selected, but that those which he kept were lost during the war.

Mrs. Winborne is still living, at Wilson, N. C. Her statement is as follows: About the second week in February, 1861, Maj. Smith told her that the Confederacy had decided to have a new flag, and its committee had advertised for designs. He asked her if she would make a model for him to send to the committee. She did so. The field extended through one white and one red stripe, and it had seven stars, in the field. Maj. Smith brought her material for a large flag, the day that he learned that his design had been accepted by the Congress. She and others made the large flag, though her sister, Sarah Ann, said that she would not help, as she was going to marry a Yankee officer. Her sister played on the piano while the others

worked. They did some work on Sunday, the 17th, in order to get it finished in time. It was raised on March 18th. The small flag was sent to Montgomery, and it was accepted without alteration by the Congress. She does not know how Maj. Smith learned that it had been accepted.

Mrs. Sue Jasper Sugg's statement is as follows: She saw Mrs. Watson making the model. She knows that it was sent to Montgomery and adopted by the Congress. It was exactly like the Stars and Bars. She saw them making the large flag and saw it raised. It was exactly like the model.

A. T. Watson, clerk of the Superior Court, Tarboro, N. C., J. D. Thrash, State Recording Secretary of the U. D. C., Paul Jones, Mayor, and C. A. Johnson, Chairman of the Board of Trade, testify to the high moral character and unquestioned veracity of Mrs. Sugg. J. H. Marshburn, W. P. Wootten, M. Bradshaw, Mrs. F. A. Woodward and Miss Lola Wells testify, likewise, as to Mrs. Winborne.

Gen. J. S. Milliken, of Milliken, La., writes that he interviewed Mrs. Winborne about this matter, about in 1914, and he details her statements, which are about the same as those heretofore given. He said that she was a well preserved woman, and seemed to have perfect command of her memory. Gen. Milliken formerly lived in North Carolina, and is interested in Maj. Smith's success, to a greater or less extent.

The statements of Mrs. Sugg and Mrs. Winborne are under oath. The same is true of practically all the statements offered on behalf of Maj. Smith. Very few of those offered on behalf of Mr. Marschall are under oath.

The following are some of the witnesses, offered in behalf of Major Smith:

That Mrs. Watson made the small flag: M. A. Herring, Adam Ball, T. S. Collie, Eugene T. Cooke, H. D. Edgerton, F. N. Edgerton and W. H. H. Hill;

That the large flag was like the small one: Mrs. J. A. Jones, Mrs. W. P. Montgomery, Sarah E. Place and Mrs. W. H. Pleasants;

That the small one was sent to Montgomery the second week in February: M. A. Herring, Mrs. J. A. Jones, Adam Ball, T. S. Collie, Eugene T. Cooke, H. D. Edgerton, F. N. Edgerton and W. H. H. Hill;

That Maj. Smith learned that it had been accepted: M. A. Herring;

That they saw the large flag raised on March 18th, and the celebration incident thereto: twenty different persons;

That it was then and has been since, common report, in Louisburg, that Maj. Smith designed the Stars and Bars: Lou E. Brown, Mattie O. Brown, Mrs. Kate McA. Crenshaw, Mrs. Chas. M. Cooke, Mrs. Wm. Person, Adam Ball, Eugene T. Cooke, T. S. Collie, John W. Daniel, H. D. Edgerton, F. N. Edgerton, W. H. H. Hill, J. A. May, Wm. J. King and C. C. Harrison;

That the flag presented to The Franklin Rifles was exactly like the one raised on March 18th: Mrs. Jordan S. Barrow and Mrs. E. G. Spencer;

That they saw the large flag being made: Sarah J. Barrow, Mrs. R. P. Cooke and twelve others.

This classification was not made by the advocates of Maj. Smith. It was gleaned out, by your committee, from the different papers. The proofs are made by separate affidavits, or statements, one to each witness. In this way, the individual recollection of each is shown. There are some which cover more than others. The effect of all this is to more forcibly impress your committee. The proofs on behalf of Mr. Marschall, with a few exceptions, are typewritten forms, which were, each, signed by many different persons.

In addition to the above, there are statements by officers and members of the following organizations to the effect that they have investigated the facts and find that Maj. Smith is entitled to the honor of having designed the Stars and Bars, and that this has long been known, locally, to-wit: North Carolina Division of United Confederate Veterans, Chamber of Commerce of Louisburg, N. C., Board of Commissioners of that County, Mayor and Clerk of Louisburg, N. C., Camp of United Confederate Veterans of that (Franklin) County, Chapter of United Daughters of the Confederacy of Louisburg, and the Legislature of the State of North Carolina. Several of them testify to the high character of Mrs. Watson, Mrs. Sugg, C. C. Harris and Algernon S. Strother; and the Louisburg Camp of Veterans to the facts that the flag presented to the Franklin Rifles (which, as stated, is now in existence) was exactly like the flag which was raised on March 18th, 1861, and the model which was sent to Montgomery, except in the number of stars.

Some comment is made by the advocates of Mr. Mar-

shall that Maj. Smith gives a significance, to the colors in his design, different from that given by the Congressional committee. Your committee is of the opinion that the significance given to the colors is of no importance, so far as this contest is concerned. Maj. Smith may have attributed a significance entirely different from that attributed by others, and yet he may have sent in a design that was adopted.

Much stress is laid, by the advocates of Mr. Marschall, on the facts that, in one of the conventions of the United Daughters of the Confederacy of North Carolina, it was stated that Maj. Smith's claim was not known to them until June, 1911, and that Maj. Smith's daughter, who is his advocate in this contest, did not hear, until about eight years ago, that her father claimed to have designed the flag. As to the first criticism, it is easily possible that these ladies may not have heard of the claim and still Maj. Smith may have designed the flag. It was mentioned in a paper read before this same body in 1903. His daughter's not having heard that he claimed to have made the design is unfavorable to his cause, yet not fatal. His neighbors evidently had heard of it. The article in the National Tribune says that his claim was published and not disputed until 1904, and Mr. Harrison's book indicates the same. Miss Smith states that her father was not given to speaking of the things that he did, until he became old; that, for many years after the war, no one seemed to care much for things connected with it; that her father was away from home a great deal; and that she learned of his claim about twelve years before his death, which was March 3, 1913. All of these facts are quite probable and consistent with his having made the design. Mr. Marschall's advocates claim that she stated, in a letter to one of them, that she first learned of it, while her father was talking, in a delirium. That letter was destroyed, your committee is informed, by one of those advocates, and was not presented in evidence. Miss Smith states that she never made any such statement, in a letter, or in any other way; that she may have stated that her mother had a long spell of illness and was frequently delirious, and that her father was sick only three months before his death and was not delirious at any time.

In the way of general observations, your committee states that both sides seem to have sufficient evidence.

were it uncontradicted; that the characters of both claimants for reliability and honesty are vouched for; that the photograph of each gives a favorable impression; and that both enlisted in the Confederate Army. Maj. Smith served continuously to the end. Mr. Marschall was absent about a year and a quarter and had a substitute in his place. In conviction, he was opposed to secession. As has been stated both are now deceased. Mr. Marschall was born in Prussia, and emigrated to this country in 1849. He married an Alabama lady. The fact that neither side has positive, convincing proof is more to be counted against Mr. Marschall than against Maj. Smith. Mr. Marschall was close to Montgomery and claimed to have influential friends in official position. It would have been quite easy for one of them to have secured a paper, of some kind, containing evidence of his victory. Maj. Smith lived a long distance away, in a sparsely settled country, without good communications, and there is no evidence that he had any influential friend in Montgomery.

Your committee would prefer, in a matter of this kind, to have some definite and positive proof; but the absence of this, while it makes the labor of your committee greater, does not relieve your committee of the duty of forming and announcing its conclusions.

Your committee's conclusions are as follows: That Maj. Smith made a design, which was exactly like the flag now known as the Stars and Bars, and sent it to the committee of the Congress in the early part of February, 1861; that that committee could not agree on a single design, and sent in four designs to the Congress, that, in deference to public sentiment, it included in those four at least one design that bore some resemblance to the flag of the United States; that it selected Maj. Smith's design as the one which it should so send in; and that Maj. Smith's design was selected from among those four, and adopted by the Congress for that of the flag of the new Confederacy.

Most respectfully submitted,

R. B. HAUGHTON,
Chairman;
JAMES F. TATEM,
WM. W. OLD, JR.,
Committee.

Sons of Confederate Veterans. Stars and The Stars and bars;



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